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MICHAEL RODAK, JR., C

IN THE
SUPREME COURT OF THE UNITED STATES

October Term 1972

No. _____

72-963

JOHN A. HUTTER, et al.	)	Appeal
	)	from the
Plaintiffs-Petitioners	)	United
	)	States
vs.	)	Court of
	)	Appeals
	)	Seventh
COOK COUNTY ILLINOIS, et al.	)	Circuit
	)	(No. 72-
Defendants-Respondents	)	1316)

PETITION FOR A WRIT OF CERTIORARI

TO THE

UNITED STATES COURT OF APPEALS

SEVENTH CIRCUIT

John A. Hutter
Attorney for Petitioners
3526 N. Marshfield Avenue
Chicago, Illinois 60657
GR 7-2259

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IN THE
SUPREME COURT OF THE UNITED STATES

October Term A.D., 1972

No. _____

JOHN A. HUTTER, et al., Petitioners

vs.

COOK COUNTY ILLINOIS, Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS, SEVENTH CIRCUIT

OPINIONS IN COURT BELOW

(a) There are no official or unofficial reports. The opinions of the Courts below is appended to this petition.

JURISDICTIONAL GROUNDS

(b) The jurisdiction of this Court is invoked according to U. S. Code Title 28, p. 1254(1) on the grounds that the decisions of the lower Courts have denied petitioners their Civil Rights and their further rights claimed under the Constitution and the Amendments thereto.

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(i) The judgment of the Court of Appeals Seventh Circuit was dated and entered October 10, 1972.

(ii) No petition for rehearing was filed.

(iii) Petitioners believe that the statutory provisions of the U. S. Code, Title 28, P. 1254(1) confers jurisdiction on this Court to review the judgment by a Writ of Certiorari.

QUESTIONS PRESENTED FOR REVIEW

(c) The question presented in the petition is whether a unit of State government, specifically, the County of Cook, Illinois, acting through its elected Assessor, P. J. Cullerton, may deliberately ignore the provisions of both the Federal and State Constitutions and enter into a conspiracy with certain taxpayers of that County so that they pay far less than their proper share of the taxes to the grave detriment of the class of taxpayers who are the petitioners to this Court; also whether the County and the Assessor are liable for damages caused this class of taxpayers.

CONSTITUTIONAL PROVISIONS INVOLVED

(d) Amendments to the Constitution of the United States pertaining to due process and equality before the law.

Also statutory provisions protecting the Civil Rights of persons residing within the jurisdiction of this Court secured by the Constitution of the United States. Article 9 of the Constitution of the State of Illinois which provides, "The General Assembly shall provide such revenue as may be needful, by levying a

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tax by valuation so that every person and corporation shall pay a tax in proportion to the valuation of his, her, or its property."

The 1968 Amendment to the Civil Rights Act provides in part as follows:

One of these Amendments prohibit two or more persons from conspiring to "injure, oppress, threaten or intimidate any citizens in the free exercise or enjoyment of any right or privilege secured by him by the Constitution or laws of the United States."

This conspiracy statute carries a stiff penalty of up to a ten year prison sentence and $10,000. fine.

The other section of the 1968 Amendment to the Civil Rights Act, was written specifically to persons who commit the same violation under color of State law.

When does the attorney general plan to act?

STATEMENT OF THE CASE

(a) The petitioners are citizens of the State of Illinois or citizens of other States who own real property in Illinois and are subject to taxation upon that property as provided by the Constitution of the State of Illinois.

The petitioners constitute a particular class of taxpayers who own apartment buildings in Cook County, Illinois; their apartment buildings are too large to be favored as residential taxpayers and too small to be favored as owners of high rise apartment and office buildings.

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Respondent Cullerton frankly admits that he is a law unto himself; that he has deliberately ignored the provisions of both the State and Federal Constitutions; that he has set up a system of assessing real property which he has found very helpful in perpetuating himself and others in political office. For example, by assessing residential property at 10-15-20% of fair market value, a great mass of enthusiastic voters retain him in office and at the other end of the spectrum, those fortunate, monied individuals whose high rise building like the towering John Hancock building, are assessed at 7½ - 20% of their fair market value, are understandably liberal with their campaign contributions. Thus, Mr. Cullerton enjoys the best of both worlds and has been reelected almost from time immemorial.

Alas for these poor petitioners that are caught in the middle and assessed at 50 to 100% of the fair market value of their apartment buildings; they have few votes and after the City of Chicago Building Department and Courts destroy their possibility of existing, and raze their building; also they have few funds available for political contributions.

Even lawyers who are sworn to uphold our Constitution get into the act and "affirm their confidence in the integrity and ability of Assessor P. J. Cullerton and urged his reelection because he has brazenly ignored the Constitutions and assessed single family homes at only 20 - 30% in fair market value!"

This patriotic group of lawyers continues to stress reasons for his reelection by stating, "assessments on business and

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commercial property average twice the percentage placed on single family homes." They are referring to this unfortunate class of persons who are the petitioners. They also state, "by judicious assessment of business and income producing property (the high rises assessed at 7½ - 20%) Assessor Cullerton has promoted a construction boom".... Yes, indeed and with practically no taxes to pay, they have been able to run out of business these petitioners, these saving industrious people who have provided private housing for a large part of the renters of Cook County before they were driven out of business and frequently onto the relief rolls. The Court is asked to take judicial notice of petitioner's special Exhibit I filed with this petition.

The bipartisan Lawyers Committee, who would give their lives to protect people's rights under the Constitution?? and who paid for the large ad (see Exhibit) include patriotic former burocrat Newton N. Minow and other like members of the committee.

What else needs be said? Every allegation of these petitioners is frankly admitted and the reply of the respondents is: So what?

BASIS FOR FEDERAL JURISDICTION

(f) The plaintiffs claim their Civil and Constitutional rights have been violated.

ARGUMENT SUPPORTING ALLOWANCE OF WRIT

(g) The Court of Appeals in their order of October 10, 1972 state on page 2 in affirming the dismissal of this action by the District Court, that "We affirm

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solely on the ground that application of the abstention doctrine was proper in this case."

The Court of Appeals on page 3 calls attention to the fact that Hutter challenged the Constitutionality of the tax assessed against him in Hutter v. Korzen No. 71. 1419, 40 U.S. LW 3596. This Court dismissed that appeal because a certain situation prevented Hutter from delivering his brief to Washington by the due date. Mr. Justice Douglas, in his dissent stated, "this Court in case after case, has in its discretion waived the strictures of that rule (Rule 13(1)), up to now it has indeed been more concerned with disposing of cases as justice may require rather than finding technical ways to avoid decision of knotty questions." This case applied to Hutter's 1968 taxes; 1969 taxes are at present before the Illinois Supreme Court and the problem will again be presented to the Supreme Court of the United States for solution within a few months.

The Court of Appeals cites several cases; Zwickler v. Kosta 389 U.S. 241, 255 (1967); Louisiana Power & Light Co. v. City of Thibodaux 360 U.S. 25 (1958); Martin v. Creasy 360 U.S. 219, 224 (1958); and Toomer v. Witsell 334 U.S. 385, 387, 392 (1947).

All of these cases are strictly tax cases. All were decided before the Civil Rights Act of 1968.

Hutter stated in his complaint in averment No. 1, "That the jurisdiction of this Honorable Court is invoked pursuant to the provisions of Title 28, Section 1331 and other sections applicable.

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This includes the Civil Rights Act of 1968. The petitioners are asking this Court to protect these and other Constitutional rights of this class of injured citizens from the flagrant violation of those rights by the respondents.

This case is similar to Hutter V. Tanck No. 72-348 now pending before this Court.

In neither one of these cases are taxes directly involved. In both cases damages are demanded for the wanton violation of the petitioners Civil and Constitutional rights.

Details of Hutter's assessments are to be found in his complaint in Appendix.

The Court is asked to grant the Writ of Certiorari so that this large class of abused citizens may have justice.

Respectfully submitted,

John A. Hutter
Attorney for the Petitioners

* * * * * * * * * * *

APPENDIX

NOTICE OF APPEAL

Notice is hereby given that John A. Hutter, et al., plaintiffs, hereby appeal to the United States Court of Appeals for the Seventh Circuit from the order and

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final judgment entered the 28th of February, 1972.

John A. Hutter
Attorney for plaintiffs-
Appellants
3526 N. Marshfield Ave.
Chicago, Illinois 60657

COMPLAINT

Now come the plaintiffs, John A. Hutter, Clara N. Hutter, and the class of taxpayers who own apartment buildings in Cook County, by their attorney John A. Hutter and complain of the defendants, the County of Cook, Illinois, and its Assessor P. J. Cullerton, as follows and allege and claim:

1. That the jurisdiction of this Honorable Court is invoked pursuant to the provisions of Title 28, Section 1331 and other sections applicable.

2. That the matter in controversy exceeds Ten Thousand Dollars ($10,000.) exclusive of Interest and costs.

3. That the plaintiffs John A. Hutter and Clara N. Hutter, own an apartment building at 3526-28 North Marshfield Avenue, Chicago, Illinois and the class of taxpayers that are joint plaintiffs own apartment buildings in Cook County, Illinois.

4. That the defendant County of Cook, Illinois, and its Assessor, P. J. Cullerton, are responsible for assessing the real estate owned in Cook County by the plaintiffs.

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5. That the United States Constitution Amendment 14 protects the Civil Rights of the plaintiffs and requires that all persons residing in the United States are entitled to the equal protection of the law.

6. That the Constitution of the State of Illinois, Article 9, states, "The General Assembly shall provide such revenue as may be needful, by levying a tax by valuation so that every person and corporation shall pay a tax in proportion to the valuation of his, her, or its property."

7. That the government of the County through the wilful malfeasance of its duly elected assessor P. J. Cullerton, wilfully assessed taxes against the real property of plaintiffs contrary to the provisions of both the United States Constitution and the Constitution of the State of Illinois.

8. That the County, through its Assessor P. J. Cullerton, assessed the property of owners of residential property at 15-20% of its fair market value in the same block where the apartment building of plaintiffs John A. Hutter and Clara N. Hutter was assessed at 70% of its fair market value. This fraudulent basis of assessment contrary to Constitution requirements of equality prevails throughout the County of Cook.

9. That the County through its Assessor P. J. Cullerton, assesses the property of owners of high rise office buildings and apartment buildings at a rate of from 7.5% (John Hancock building) to 25%.

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10. That the equalization factor of some 50% added to the assessed value further adds to the unbearable discrimination of the class of property owners of average apartment houses.

11. That this fraudulent taxes assessed against this class of property owners has caused many of them to lose their property.

12. That in the case of John A. and Clara N. Hutter, as an example, the taxes fraudulently assesses approach the gross income of the property in amount.

13. That although this confiscatory assessment was brought to the attention of the assessor, no relief was given.

14. That the years involved are 1968, 1969, 1970, 1971 and any other years for which the Court may grant relief.

15. That the real and actual damages involved herein are over one half billion dollars ($500,000,000.00).

16. That the plaintiffs are also entitled to exemplary and punitive damages of fifty percent in addition to their real and actual damages.

WHEREFORE THE PLAINTIFFS PRAY that this Court will grant them justice.

* * * * *

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Name of Presiding Judge, Hon. Hubert L. Will
Cause No. 71 C 2984 Date. Feb. 9, 1972
Title of Cause: John A. Hutter, et al., vs. Cook County, Illinois and P. J. Cullerton, Assessor

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Brief Statement of Motion:
Names and address of moving counsel:
Representing:
Names and address of other counsel entitled to notice and names of parties they represent.
Reserve space below for notations by minute clerk:
Pursuant to Court's memorandum opinion this day filed,
Order defendants' motion to dismiss the complaint granted.
Order complaint dismissed.

* * * * * * * * *

MEMORANDUM OPINION

The complaint in this lawsuit purports to state a class action by the plaintiffs as representatives of the class of taxpayers who own apartment buildings in Cook County. Asserting jurisdiction under 28 U.S.C. §1331 and the Fourteenth Amendment, the plaintiffs allege malfeasance and discrimination on the part of the Assessor of Cook County in fraudulently assessing taxes against the plaintiffs and the other class members in such a manner as to violate the equal protection clause of the Fourteenth Amendment. Specifically, they allege that the Assessor assesses high rise office and apartment buildings at a rate of their fair market value significantly lower than the rate at which the plaintiffs' property is assessed and that other residential property located on the same block as the building they own (apparently of a similar nature) is likewise assessed at a much lower rate. The defendants move to dismiss the complaint.

The basis upon which the defendants move to dismiss the complaint is Section

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1341 of Title 28 of the United States Code. That section states:

> The district Courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the Courts of such State.

The defendants assert that an efficient and speedy remedy for challenging any real property tax for any year for any reason exists pursuant to Ill.Rev.State. Ch. 120, §675, and that we therefore, do not possess jurisdiction over the suit. The Illinois statute states in pertinent part:

> Current taxes on real property shall be payable in 2 equal installments....
>
> If any person desires to object...to all or any part of a real property tax for any year, for any reason other than that the real estate is not subject to taxation, he shall first pay all of the tax installments due, and such payment shall be accompanied by a writing (in a specified form)...
>
> The person paying real estate taxes under protest shall appear in the next application for judgment and order of sale and object to the taxes in relation to which the protest is made, and upon his failure so to do, the protest shall be waived, and judgment and order of sale entered for any unpaid balance of such taxes...
>
> In all counties, when the taxpayer appears and files objections, the

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> court shall, after first determining that due notice, if required, has given to the tax levying unit, hear and determine the matter according to the right of the case and enter judgment for any part of the taxes, or order a refund of any part of the taxes, so paid under protest. Appeals shall lie from such orders of the Court as in other cases of objection to judgment and order of sale for taxes....

We first note that the plaintiffs' suit is not, strictly speaking, a suit to "enjoin, suspend or restrain the assessment levy or collection" of any taxes. Rather, the plaintiffs merely seek damages for themselves and the class that they represent for the years 1968, 1969, 1970, 1971, and for any other years for which the Court may grant relief. Accordingly, the defendants' bald assertion that the suit "is actually one to enjoin the assessment, levy, or collection of real estate taxes" within the purview of the restrictive language of §1341 cannot stand without further analysis of the history of that statute.

Section 1341 of Title 28 of the United States Code is the codification of the practice of the Federal equity Courts to deny relief from the collection of taxes by State authorities when a remedy existed in the State Courts. Speaking in regard to this equity practice, the Supreme Court stated in Matthew v. Rodgers, 284 U.S. 521, 525-526 (1932).

> The scrupulous regard for the rightful independence of State governments which should at all times actuate the Federal Courts and a proper reluctance

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> to interfere by injunction with their fiscal operations, require that such relief should be denied in every case where the asserted Federal right may be preserved without it. Whenever the question has been presented, this Court has uniformly held that the mere illegality or unconstitutionality of a State or Municipal tax is not in itself a ground for equitable relief in the Courts of the United States. If the remedy at law is plain, adequate, and complete, the aggrieved party is left to that remedy in the State Courts, from which the cause may be brought to this Court for review if any Federal question be involved.

It has similarly been held that where there is available an efficient remedy in the State tax agencies and/or Courts whereby a taxpayer can contest the imposition of a discriminatory tax, Federal Courts are without jurisdiction to entertain a suit seeking relief, no matter how the suit is structured or denominated. Great Lakes Dredge & Dock Co. v. Huffman, 319 U.S. 292 (1943); Hackensack Water Co. v. North Bergen Township, 103 F.Supp. 133 (D.N.J. 1952), aff'd 200 F.2d 313 (3rd Cir. 1952); cf., Hillsborough Township v. Cromwell, 326 U.S. 620 (1946). We conclude from a reading of these cases, plus the fact that §1341 is not restricted to suits seeking only equitable relief, that the doctrine of comity codified in this section prohibits a narrow reading thereof and that this suit, therefore, must be deemed to fall within its restrictions. Accordingly, we must determine if the Illinois statute quoted above would provide the plaintiffs with a plain and efficient remedy.

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A review of the Illinois tax statutes relating to the protesting of assessed taxes leads the Court to the conclusion that the plaintiffs indeed did possess an adequate and efficient remedy in the State Courts, which apparently they have chosen to bypass rather than following the prescribed form of lodging their protest at the time that they paid their taxes. As we read the plaintiffs' brief in opposition to the motion to dismiss, they are not actually contending that they are without a plain and efficient remedy in the State Courts but rather are asserting that the requirement that they pay their taxes as a condition precedent to lodging their Constitutional complaint against such taxes is, in and of itself, a violation of the Fourteenth Amendment.

Although we are uncertain as to the relationship of the Constitutionality of the Illinois statute to the issue of whether it is speedy and efficient, we believe that even if such issue is relevant, the plaintiffs' argument is not valid. They cite no authority for the proposition that the Constitution is violated by a State's requiring a citizen who believes his tax is improper to pay his tax prior to having his challenge heard. Nor can we even imagine the existence of such authority. Logic dictates that a government which relies significantly upon the property tax as the major source of its revenues must be allowed to continue to collect its taxes even though a challenge has been made either to the tax itself or to its particular application. If the contrary were true, a local government could be brought to a total standstill merely because many of its citizens believed, erroneously or otherwise, that the taxes assessed were improper. The degree of chaos that would result from

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such set of procedures which the plaintiffs claim are Constitutionally required could clearly lead to the total breakdown of all local revenue collections. We conclude that such a system is not Constitutionally required and that Ill.Rev.Stat., Ch. 120, §675, is not unconstitutional. We further conclude that the plaintiffs possessed a plain, speedy, and efficient remedy in the Courts of Illinois in which they could have asserted their claims. Accordingly, the complaint must be dismissed pursuant to 28 U.S.C. §1341.

Even if the jurisdictional restrictions of §1341 do not apply to this suit because a complaint for damages may not technically be deemed as seeking to "enjoin, suspend or restrain the assessment, levy, or collection" of a State tax, we nevertheless believe that the complaint must be dismissed. Faced with a suit very similar to the one involved herein, the Third Circuit has concluded that when a taxpayer possesses an adewuate remedy in the State Courts for challenging taxes levied against him, his failure to assert the grounds for challenge in the State proceedings renders stale any subsequent suit in the Federal Courts based upon those grounds. Hackensack Water Co. v. North Bergen, 200 F.2d 313 (3rd Cir. 1952). In that case, the taxpayer argued that it did not have an adequate State remedy to assert its particular ground for challenging its tax assessment and the personal property taxes assessed for the years 1940 through 1948 were unconstitutional. After concluding that the taxpayer did possess an adequate State remedy and that it had never made any attempt to raise in the State proceedings the type of claim which it was asserting in Federal Court (although it had raised other grounds in the State

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Court), the Third Circuit concluded that the taxpayer's delay in asserting the alleged unconstitutionality of the tax caused its claims to become stale. The Court stated:

> The above facts convincingly indicate that this action for refund is stale with respect to the balance of the years in dispute. The assessments for those years were finally determined on the single question ever properly before the State Courts. It is too late for this taxpayer to now attempt to impeach their validity. Relying upon them, commitments have been incurred and paid by Township, County and State agencies concerned. The (taxpayer) must be considered to have waived whatever right it possessed to object on Constitutional grounds....
>
> To permit the type of recovery sought by (the taxpayer) under the circumstances here revealed would seriously and capriciously endanger the ordinary functioning of government agencies. 200 F.2d at 317.

We believe that the Third Circuit's reasoning is persuasive and that the taxpayers herein are precluded from challenging in this Court the Constitutionality of taxes which they have paid and which they never challenged in the State Courts. To allow the plaintiffs to assert their stale claims would be to encourage the bypassing of a State system designed specifically to handle such challenges and the disruption of the orderly processes and functioning of State and Municipal governments. Accordingly, the plaintiffs' complaint must be dismissed.

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Finally, even assuming that 28 U.S.C. §1341 does not preclude the taxpayers from bringing this suit and that they could not be legally deemed to have waived their claims by bypassing the authorized State procedures for challenging taxes for any reason, we would nevertheless believe that this Court should abstain from exercising whatever jurisdiction we do possess because of the nature of the claim asserted in the complaint. The complaint challenges the heart of the financing system of a State subdivision. Before the Federal Courts should interfere with this function so peculiarly oriented to the very existence of a unit of State government, we believe that the Courts of the State should be presented with the opportunity to at least hear and rule upon the contentions raised. Even if we have jurisdiction to rule upon the plaintiffs' claims on the merits after the State Courts first have been presented with this opportunity, to do so now in the type of lawsuit involved herein would upset the delicate balance of comity long recognized by Federal Courts and by the Congress in 28 U.S.C. §1341. Thus, even if the restrictions of §1341 do not technically apply to this suit, the rationale behind that statute convinces us to refrain from exercising such jurisdiction as we might then possess prior to any proper attempts on the part of the plaintiffs to seek resolution of these issues in the State Courts, either through a protest properly lodged with the payment of taxes or by a suit in theCircuit Court challenging the Constitutionality of the practices herein complained of.

An appropriate order will enter granting the defendants' motion to dismiss the complaint.

(signed) Hubert Will,
United States District Judge

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UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

October 10, 1972
Before
Hon. Thomas E. Fairchild, Circuit Judge
Hon. Walter J. Cummings, Circuit Judge
Hon. John Paul Stevens, Circuit Judge

JOHN A. HUTTER, et al.,
Plaintiffs-Appellants

No. 72-1316 vs.
COOK COUNTY, ILLINOIS, P.J. CULLERTON, ASSESSOR,
Defendants-Appellees

Appeal from the United States District Court for the Northern District of Illinois Eastern Division (71 C 2984) Judge Will

ORDER

This is a Federal question (28 U.S.C. §1331(a)) involving a suit which seeks damages of one-half billion dollars and punitive damages for defendants' alleged violation of plaintiffs Constitutional right to equal protection. The district Court dismissed the complaint. We affirm.

Plaintiffs sue as owners of property in Chicago and in behalf of all similarly situated property owners. They assert that P. J. Cullerton, Cook County Assessor, violated their right to equal protection by wilfully assessing the taxes on their property at a rate of 70% of its fair market value while arbitrarily assessing similar properties at rates of 15-20% of fair market value.

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Defendants moved to dismiss upon various grounds. On February 9, 1972 the district Court dismissed upon the following stated grounds: (1) that the suit was barred by 28 U.S.C. §1341 which the district Court concluded was "not restricted to suits seeking only equitable relief, that the doctrine of comity codified in this section prohibits a narrow reading thereof and that this suit, therefore, must be deemed to fall within its restrictions;" and (2) even if §1341 did not apply because this suit was technically one for damages rather than a suit in equity to "enjoin, suspend or restrain," nevertheless, the taxpayer's failure to raise his Constitutional argument concerning equal protection in a prior State Court proceeding constituted a waiver which precluded this suit. Finally (3) assuming that §1341 did not constitute a bar and that there was no waiver, nevertheless the Federal Court should abstain until the State Courts are given an opportunity to decide the question.

The plaintiffs-appellants and the defendants-appellees, Cook County, Illinois, et al. have filed briefs with this Court. On September 19, 1972, the latter moved pursuant to Circuit Rule 22 for affirmance without oral argument.

We express no opinion with regard to the applicability of §1341 if Title 28; nor do we believe that discussion of waiver of Constitutional rights is appropriate. We affirm solely on the ground that application of the abstention doctrine was proper in this case.

As Mr. Justice Harlan indicates

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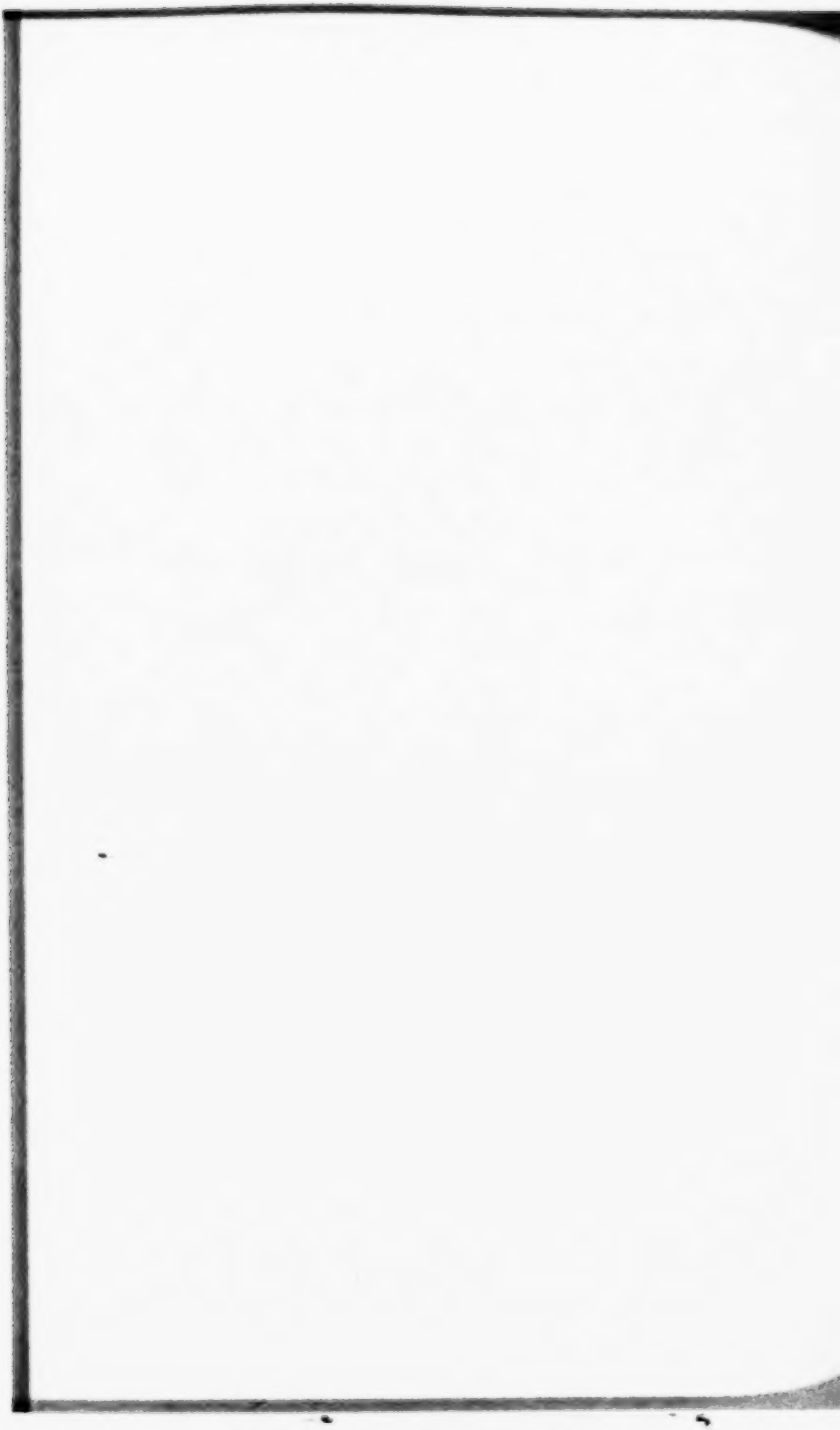
in his concurring opinion in Zwickler v. Koota, 389 U.S. 241, 255 (1967) abstention is appropriate where the order to repair to the State Court would avoid the hazard of unsettling some delicate balance in the area of Federal-State relationships. See Louisiana Power & Light Co. v. City of Thibodaux, 360 U.S. 25, 32 (1958). While Zwickler v. Koota, supra at n.4 suggests that the better practice in a case raising a Federal Constitutional claim is for the district Court to retain jurisdiction, rather than to dismiss, there is ample authority indicating that under the circumstances presented here dismissal is proper.

In Martin v. Creasy, 360 U.S. 219 (1958), the Court held that a three judge Court convened to determine the scope of a Pennsylvania statute should have "declined to adjudicate this controversy" because of the potential for (1) "unseemly conflict between two sovereignties," (2) "the unnecessary impairment of State functions," and (3) "the premature determination of Constitutional questions." Moreover, in Toomer v. Witsell, 334 U.S. 385, 387-392 (1947) the Court upheld the dismissal of suit brought in a Federal district Court because: "(a)nother... statute...permits any taxpayer who believes a tax to be illegal for any cause to pay the tax under protest and then sue in a State Court to recover amounts so paid."

Illinois' Revenue Act of 1939, (Ill. Rev. Stat., Ch. 120, §§482-811), provides a complex method of property tax assessment and collection. Property owners such as the plaintiff are afforded an opportunity to complain of assessment before a tax is levied. See Ill.Rev.Stat. Ch. 120 §598 (Cum. Supp. 1972). After a



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tax is owing a further method of challenging the assessment is afforded by paying taxes under protest. See Ill. Rev. Stat. Ch. 120, §675. The record in this appeal indicates that the Mr. Hutter has also filed a challenge to the Illinois Revenue Act in Illinois Courts without paying taxes due. The challenge is currently, pending before the United States Supreme Court. Hutter v. Korzen, No. 71-1419 U.S. L.W. 3596.

In addition to the availability to State statutory remedies it is apparent that suits challenging method and equality of assessment under the equal protection clause of the Federal Constitution have been considered in the Illinois State Courts, and there is no discernible pattern of prejudice against the taxpayer. See e.g. Peoples Gas Light and Coke Co. vs. Struckert 286 Ill. 164, People v. Orvis, 301, Ill. 350, Bestor v. McDonough, 348 Ill. 624, and People v. Pickard, 377 Ill. 610.

The decision of the Federal District Court is affirmed.